



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 6573-99

14 January 2000

1STLT [REDACTED] USMC

Dear Lieutenant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 January 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 21 October 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. They did not find the marks and comments of your contested fitness report to be inconsistent, nor did they find any requirement that the marks be specifically justified. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
OCT 21 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF FIRST
LIEUTENANT [REDACTED] USMC

Ref: (a) 1stLt [REDACTED] DD Form 149 of 4 Aug 99
(b) MCO P1610.7D w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 13 October 1999 to consider First Lieutenant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 980701 to 980902 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report does not provide an accurate assessment of his performance; that the Section B marks do not coincide with the Section C comments; that he was not counseled on any deficiencies prior to receiving the report; and that the report was used as a counseling tool vice an evaluation of his overall performance.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. At the outset, the Board observes that the inherent relationship between the petitioner and the Reporting Senior (Platoon Commander/Company Commander) would have certainly ensured that some type of performance feedback occurred. To what extent, however, the Board cannot discern at this time. We also point out that performance counseling, or a lack thereof, does not constitute grounds for removing a fitness report. Reference (b) governs a totally separate program from the Counseling Order. While the two programs should be applied simultaneously, they are totally exclusive of each other. Performance counseling may be conducted in various forums employing a variety of techniques which may or may not be documented or recognized as such by the recipient.

b. The petitioner's assertions that the report is inaccurate and unjust are not borne out by the evidence furnished with reference (a). The markings in Section B are clearly not

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF FIRST
LIEUTENANT [REDACTED] USMC

adverse. Likewise, and while probably not as enthusiastic as the petitioner would like, the language contained in the comments made by the reporting officials is not adverse or prejudicial. Those comments portray a junior officer making strides in personal and professional development.

c. While Captain [REDACTED] had a cumulative period of three months during which to observe the petitioner, we note that the Reviewing Officer had an association with the petitioner for some 13 months. Finally, and notwithstanding the character references furnished with reference (a), the Board is simply not convinced or otherwise persuaded that the challenged performance evaluation is anything other than a fair and accurate assessment.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of First Lieutenant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps